

are now pending in this application. Claims 40 - 49 have been canceled herein, without prejudice and with traverse, in response to the Examiner's restriction requirement. It is asserted that no new matter has been added.

Response to Examiner's Restriction Requirement

The Examiner has issued a restriction requirement, which requires election to one of two groups of claims, which the Examiner asserts are distinct from each other. The groups of claims are characterized by the Examiner as set forth below:

- I. Claims 1 – 39 and 50 drawn to a catalyst and making the same, classified in class 502, subclass 60+
- II. Claims 40 – 49, drawn to an alkylation process, classified in class 585, subclass 467.

The Examiner acknowledges that the inventions I and II are related as a process of making, and product made (page 2 of the Office Action). The Examiner asserts that as the product claimed can be made “by another and materially different process” that the process and product are distinct (*Id.*). The Examiner further argues that the subject matter of Group I and II have “acquired a separate status in the art as shown by their different classification” (*Id.*). The Examiner therefore reasons that “restriction for examination purposes as indicated is proper” (*Id.*).

Applicants while respectfully traversing the restriction for the reason set forth below, provisionally elect prosecution of the claims in Group I, *i.e.*, claims 1 – 39 and 50.

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Applicants respectfully fundamentally disagree with the restriction requirement, and argue that the inventions are appropriately included in a single application as the claims recite interrelated subject matter, which should be the overriding concern in determining the propriety of the restriction requirement. Applicants respectfully asserts that examination of these groups of claims in combination would not be unduly prolonged or burdensome. In view of the foregoing, Applicants respectfully request the Examiner to reconsider and withdraw the restriction requirement.

Applicants understand their duty to amend the inventorship of the application in compliance with 37 C.F.R. §1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application.

CONCLUSIONS

Accordingly, it is respectfully submitted that the claims under consideration are clearly patentable over the references of record. It is submitted that the above-identified patent application is in condition for allowance. Early notification of the allowability of the pending claims is courteously solicited.

FEES

This response is believed to be made within the shortened statutory period for response, expiring on October 19, 2002, and therefore Applicant respectfully asserts that no fee is due. The Assistant Commissioner, however, is authorized to charge payment of

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any fees that may be required 37 C.F.R. §1.16 in connection with the paper(s) transmitted herewith, or credit any overpayment of the same, to Deposit Account No. 033975.

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Respectfully submitted,



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